

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

DAVID WAYNE ROBISON

vs.

**ROCK HAULERS LLC and
STEVEN SIVARD**

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CIVIL CASE NO. 4:21-cv-300

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendants Rock Haulers, LLC and Steven Sivard (“Defendants”), by and through their attorney of record, Tab H. Keener, DOWNS & STANFORD, P.C., hereby file this Notice of Removal from the 62nd Judicial District Court of Lamar County, Texas to the United States District Court for the Eastern District of Texas, Sherman Division. In support of its Notice of Removal, Defendants state as follows:

INTRODUCTION

1. The removed case is a civil action, initially filed on March 11 2021 by the Plaintiff in the 62nd Judicial District Court of Lamar County, Texas, Cause No. 90159, entitled *David Wayne Robinson, Plaintiff, vs. Rock Haulers LLC and Steven Sivard, Defendants*.
2. Defendant Rock Haulers LLC was served with a summons and a copy of Plaintiff’s Original Petition (“Petition”) on March 16, 2021. Defendant Steven Sivard was served with a summons and a copy Plaintiff’s Original Petition on March 19, 2021. Defendants filed their Original Answer on April 9, 2021.

NATURE OF THE SUIT

3. Plaintiff alleges in his Petition that he suffered personal injuries due to an incident that occurred on July 17, 2020. Plaintiff alleges claims against Defendants of gross negligence and negligence.

BASIS FOR FEDERAL JURISDICTION

4. Pursuant to 28 U.S.C. § 1332(a)(1), this Court has original diversity jurisdiction over this matter. Under that section, this Court has original diversity jurisdiction over any action in which (1) the amount in controversy exceeds \$75,000.00, exclusive of interests and costs; and (2) is between citizens of different states.

5. There is diversity of citizenship between Plaintiff, who is a citizen and resident of Texas and Defendant Steven Sivard, who is a citizen and resident of Oklahoma and Defendant Rock Hauler LLC, which is an Oklahoma limited liability company with its principal place of business in Oklahoma. The sole member of Rock Haulers LLC is Lonzo Covington. He is a citizen and resident of Oklahoma.

6. Defendant Rock Haulers LLC was formed in the state Oklahoma on May 30, 2012. The corporate office and principal place of business of Defendant is located at 2596 E. 2140 Road, Grant, OK 74738. The activities of Defendant Rock Haulers LLC are directed, controlled, and coordinated at and through the office located at the 2596 E. 2140 Road address. That office is considered to be the “headquarters” of Defendant Rock Haulers LLC. Moreover, Plaintiff’s Original Petition admits in ¶ 2.03 that Rock Haulers LLC is an Oklahoma “corporation with its corporate headquarters in Oklahoma and may be served with citation through its registered agent, Rock Haulers, LLC, 2596 E. 2140 Rd., Grant, OK 78738.” Plaintiff further admits that Defendant

Steven Sivard is an individual who resides in Oklahoma and may be served with citation at 1014 S. Main St., Fort Towson, OK 74735 (Petition ¶ 2.04).

7. Plaintiff also alleges damages of “over \$1,000,000.00” (Petition ¶ 3.03).

8. Accordingly, diversity jurisdiction with this Court exists, pursuant to 28 U.S.C. § 1332.

Both Defendants join in this removal and consent to remove the suit.

VENUE

9. Pursuant to 28 U.S.C. § 1441(a), Defendants have removed this action “to the district court of the United States for the district and division embracing the place where [the State court] action is pending.” Venue with the United States District Court for the Eastern District of Texas, Sherman Division is proper.

FILING OF REMOVAL PAPERS

10. Removal is proper under 28 U.S.C. § 1446 because this notice has been filed within thirty (30) days after receipt of the initial pleadings by Defendant Rock Hauler LLC, the first Defendant served.

11. Written notice of this removal has been provided simultaneously to Plaintiff and to the 62nd Judicial District Court of Lamar County, Texas pursuant to 28 U.S.C. § 1446(b).

12. By filing this Notice of Removal, Defendants do not waive any right to assert any defense with this Court, including for lack of personal jurisdiction over Defendants.

Respectfully Submitted,

DOWNS & STANFORD, P.C.

By: /s/ Tab H. Keener

TAB H. KEENER

State Bar ID No. 11168500

Email: tkeener@downsstanford.com

JAY R. DOWNS

State Bar ID No. 06088200

E-mail: jdowns@downsstanford.com

2001 Bryan Street, Suite 4000

Dallas, Texas 75201

Telephone: (214) 748-7900

Facsimile: (214) 748-4530

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing instrument has been served upon the following via email on this the 14th day of April, 2021.

cmiller@millerweisbrod.com

jbirmingham@millerweisbrod.com

Clay Miller

Josh Birmingham

Miller Weisbrod, LLP

charlie@reed-law-firm.com

Charlie S. Reed

Reed Law, PLLC

/s/ Tab H. Keener

Tab H. Keener